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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 EASTERN DIVISION

4 CHRISTOPHER B. EILAND, DVM, MS,

5 Plaintiff,

6 VS.

CIVIL ACTION
FILE NO. 2005-CV-459-VPM

7
8 DR. BYRON L. BLAGBURN, individually
9 and in his official capacity; DR. CHARLES
10 HENDRIX, individually and in his official
11 capacity; DR. JOSEPH JANICKI, individually
12 and in his official capacity; DR. STEPHEN
13 MCFARLAND, individually and in his official
14 capacity; DR. ED RICHARDSON, in his official
15 capacity as President of Auburn University;
16 and DR. LAUREN WOLFE, individually and in his
17 official capacity,

18 Defendants.

19 * * * * *

20 DEPOSITION OF ALLEN RAY DILLON, DVM, MS,
21 Diplomat ACVIM, taken on behalf of the
22 Plaintiff, pursuant to the stipulations set forth
23 herein, before Kimberly B. Faucette, Certified
Court Reporter and Notary Public, at Samford
Hall, Auburn University, Auburn, Alabama,
commencing at approximately 11:00 a.m., Monday,
July 24th, 2006.

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APPEARANCES OF COUNSEL

1 FOR THE PLAINTIFF:

2 HONORABLE KATHRYN DICKEY
3 Attorney at Law
4 THE LAW OFFICES OF KATHRYN DICKEY, LLC
5 322 Alabama Street, Suite B
6 Montgomery, Alabama 36104
7 334.262-0728

8 FOR THE DEFENDANTS:

9 HONORABLE LANE KNIGHT
10 Attorney at Law
11 BALCH & BINGHAM
12 P.O. BOX 78
13 105 Tallapoosa Street
14 Montgomery, Alabama 36104
15 334.834-6500

16 ALSO PRESENT:

17 MS. MANDY CHAMBLISS
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S T I P U L A T I O N S

It is hereby stipulated and agreed by and between counsel for the respective parties and the witness that the deposition of ALLEN RAY DILLON, DVM, MS, Diplomate ACVIM, is taken pursuant to notice and stipulation on behalf of the Plaintiff, that all formalities with respect to procedural requirements are waived; that said deposition may be taken before Kimberly B. Faucette, Certified Court Reporter and Notary Public in and for the State of Alabama at Large, without the formality of a commission; that objections to questions, other than objections as to the form of the questions, need not be made at this time, but may be reserved for a ruling at such time as the deposition may be offered in evidence or used for any other purpose as provided for by the Federal Rules of Civil Procedure.

It is further stipulated and agreed by and between counsel representing the parties in this case that the filing of the deposition of, is hereby waived and that said deposition may be

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introduced at the trial of this case or used in any other manner by either party hereto provided for by the Statute, regardless of the waiving of the filing of same.

It is further stipulated and agreed by and between the parties hereto and the witness that the signature of the witness to this deposition is hereby waived.

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ALLEN RAY DILLON, DVM, MS, Diplomate ACVIM of lawful age, having been first duly sworn, was examined and testified as follows, to-wit:

DIRECT EXAMINATION

BY MS. DICKEY:

Q. Dr. Dillon, would you state your name for the record, please?

A. Sure. Actually, it is Allen Ray Dillon, but I go by Ray.

Q. And have you ever had your deposition taken before?

A. Yes.

Q. Was it here at Auburn?

A. No.

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16 Q. what did you do to prepare for this
17 deposition today? But I am not asking you
18 what you talked about with your attorney.
19 A. Other than one conversation, no
20 preparation. I didn't review notes or
21 anything, not that I have any.
22 Q. Could you give me just a brief history of
23 your education?

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1 A. Do you want a lot of detail or just
2 summary?
3 Q. Summary.
4 A. I graduated from vet school at Texas A&M
5 in 1973, did an internship here at Auburn,
6 and did a Master's at Auburn and got board
7 certified in internal medicine and actual
8 exam and finished an MBA in 2001. That is
9 the summary.
10 Q. And are you currently employed at Auburn
11 University?
12 A. Yes.
13 Q. And how long have you been employed here?
14 A. Thirty-three years.
15 Q. What is your position?
16 A. Professor of Internal Medicine at the
17 Department of Clinical Sciences, at the
18 vet school.
19 Q. Now, as Professor of Internal Medicine, do
20 you have a concentration in parasitology?
21 A. No. Internal medicine.
22 Q. What is parasitology?
23 A. I would guess parasitology is the study of

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1 the interaction between the host and a
2 saprophytic organism, like a parasite,
3 that feeds off that organism.
4 Q. What are your major responsibilities?
5 A. I spend about half my time doing clinical
6 science, which is seeing the referral
7 cases that come to the teaching hospital,
8 and I spend about the other half of my
9 time doing cardiopulmonary research.
10 Q. Have you ever served as a major professor
11 for a graduate student?
12 A. Yes.
13 Q. Do you have a graduate student now?
14 A. Yes.
15 Q. Explain the general scenario of when you
16 would be a major professor.
17 A. It varies in clinical sciences because
18 almost all of our graduate students are,
19 in fact, residents training for board
20 certification in my field, in internal
21 medicine. So we have a national match
22 system that matches students with
23 programs. So we have a match. And then

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1 once we take on a graduate student, we see
2 which professor best fits their particular
3 interests. If they fit their interest,
4 then you become their major professor;
5 otherwise, someone else does.
6 Q. Are you familiar with Dr. Chris Eiland?

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- 7 A. Yes.
 8 Q. would you have fit the match for a major
 9 professor of his?
 10 A. No.
 11 Q. And could you explain why that would be?
 12 A. Because I only am major professor on
 13 people who are in our program in internal
 14 medicine, doing a residency, training
 15 toward certification, and Chris would not
 16 fit that nor did he apply for that nature
 17 of a position.
 18 Q. Did you have any discussions with Chris
 19 Eiland about the possibility of being a
 20 major professor of his?
 21 A. At one point, he brought up the subject,
 22 and I explained that -- all of our people
 23 are funded either by research, but 99

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- 1 percent of them are State funded on this
 2 national search, so we had no monies
 3 available.
 4 Q. Did Dr. Blagburn ever have conversations
 5 with you regarding Chris Eiland?
 6 A. Yes. Of course, I was on his committee,
 7 so we had various discussions off and on
 8 about the project that Chris worked on.
 9 Q. Okay. You are talking about the advisory
 10 committee?
 11 A. Yes.
 12 Q. And when were you on the advisory
 13 committee for Chris Eiland?
 14 A. I can't tell you an exact date, but it was
 15 soon after it was formed. I am making
 16 that assumption.
 17 Q. Was this for his Master's thesis or for
 18 his Ph.D.?
 19 A. The Master's is the only thing I am aware
 20 of.
 21 Q. Were you on the committee when there was a
 22 final examination of his Master's thesis?
 23 A. Yes.

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- 1 Q. were you present during that exam?
 2 A. I believe so, yes.
 3 Q. Do you remember how Chris did?
 4 A. He passed. And it was not on course work,
 5 as I remember. It was only on the
 6 project. So he passed, but, specifically,
 7 I can't remember anything beyond that.
 8 Q. Do you remember discussions, around that
 9 same time as the final exam, of Chris
 10 moving on and being enrolled in the Ph.D.
 11 program following his Master's?
 12 A. There were discussions off and on,
 13 informally, about whether or not Chris was
 14 going to go on for a Ph.D. or not.
 15 Q. Were there discussions about him having
 16 the same advisory committee?
 17 A. I don't remember being in the room and
 18 being involved in anything to that detail.
 19 Q. Do you remember that his research for the
 20 Master's thesis would be a continuation
 21 for the Ph.D.?

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22 A. I roughly remember that the depth of the
23 Master's would not be adequate toward the

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1 Ph.D. It may have been in a similar
2 level, but the level of investigation
3 would obviously have to be different.

4 Q. I understand it would have to be
5 different. But could it be a
6 continuation? Could he just take that
7 same subject and just go deeper?

8 A. The same subject as parasitology?

9 Q. Right.

10 A. I guess, in the broader sense, you could
11 say yes. But from the standpoint of the
12 data and what was collected to date, it
13 would have had to have been a fresh start.

14 Q. You don't remember that Chris Eiland did
15 an excess amount of research with the
16 anticipation of carrying that over to his
17 Ph.D. program?

18 A. No.

19 Q. How does one go about selecting an
20 advisory committee?

21 A. Well, here again, from my -- I have been
22 on some nonclinical programs, and you
23 usually select people who bring the most

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1 to that project and will add to the
2 intellectual success of that project.

3 Q. Do you know why you were a member of his
4 Master's thesis?

5 A. Probably because I have done a lot of
6 research in feline heartworm disease and
7 already had the project going and already
8 had the money. That is probably one of
9 the main reasons.

10 Q. What is the process of selecting a major
11 professor?

12 A. Usually, it requires a match between the
13 student's interests, the major professor's
14 interests, and the accessibility of funds
15 to fund that project if a student is not
16 willing to fund that themselves.

17 Q. Have you ever stepped down or resigned as
18 a major professor for a graduate student?

19 A. Not that I remember, no.

20 Q. Are you aware of that occurring at this
21 university?

22 A. Yes.

23 Q. Why does that generally occur?

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1 A. Usually, it occurs because there is a
2 change in the direction of the student or
3 change in emphasis or sometimes a change
4 in the funding or any number of issues,
5 meaning, whatever you started to do, three
6 to five years down the road changes and
7 usually there is a switch somewhere that
8 occurs.

9 Q. So, generally, that occurs when there is a
10 change with the student?

11 A. Or a change in the funding source, which
12 is not always guaranteed. Students enter

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in -- there are two things that have to be funded in a graduate program. One is the research; the other is the stipend. Neither one are necessarily guaranteed. Usually, graduate students enter in, making the assumption that the project itself will hopefully be funded, because very few people can fund that out of their pocket. Self-funding their own tuition is something that is quite commonly done.

Q. Are there situations where a major

professor may resign because of just problems with the student?

A. I am sure there are. I am not personally aware of any.

Q. Do you know why Dr. Blagburn resigned as Chris Eiland's major professor?

MR. KNIGHT: Object to the form.

Q. Well, let me ask you this, first: Are you aware that Dr. Blagburn resigned?

A. No. My recollection is that Chris finished his Master's and the committee passed -- He got a Master's degree and never pursued the Ph.D. degree, or whatever discussions happened, it did not come to fruition. That is my recollection, that the Master's was successfully completed and it simply ended there.

Q. You are not aware that Chris Eiland did enroll in the Ph.D. program?

A. If he did, I never saw -- if he did, I am not on the committee, because I do not

remember signing his plan of study, which is required to enter into the Ph.D. program.

Q. When is that plan of study generally signed?

A. Usually, within the first semester or so. It is not as ironclad as the -- well, the enrollment -- well, there is two things. One is a plan of study and the other is the enrollment. The enrollment is usually up front, and the plan of study is usually once a person has outlined what they plan to do for their Ph.D. and everybody on the committee has signed off on it.

Q. And when does that happen?

A. The plan of study usually -- the formal course work plan of study usually occurs after the enrollment, the official enrollment.

Q. But within six months? Three months?

A. A semester. Classically, within three months, but that varies with the department.

Q. Is it possible to enroll in a Ph.D. program and go six months and not have a plan of study and not have an advisory

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committee selected?

A. I don't think so. Not to my knowledge.

Q. What sort of circumstances would create that scenario?

MR. KINGHT: Object to form.

A. The enrollment in the Ph.D. is a separate application from the plan of study. I can't imagine someone enrolling with a plan of study without having a formal application in the graduate school. I don't think -- a lot of things have changed at Auburn over the years, and there have been some rule changes, but I don't think it is possible to do that, frankly.

Q. Can you walk me through the steps of a Ph.D. student who has enrolled in the Ph.D. program, has been accepted, then what is the next step towards getting the advisory committee and the plan of study?

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A. To be real honest, I have never been a major professor of a Ph.D. student. All of our students are Master's students. So I really couldn't speak to those specifics, not carefully and not with sure accuracy of the rules right now.

Q. Do you think there are different rules that apply to Ph.D. students as opposed to Master's level students?

A. The process may be the same, but the rigor is, I think, different.

Q. Did you have Chris Eiland as a student?

A. Yes.

Q. How was he?

A. He did well. Not outstanding; not poorly. He successfully passed the curriculum. He didn't stand out at either extreme.

Q. Are you aware that he was president of his class during veterinary school?

A. No.

Q. What involvement, if any, did you have with the parasitology lab?

A. With the lab, other than occasionally

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coordinating sampling, really there is no interaction between the lab itself and my operation over in the clinics.

Q. Did anyone ever come to you to report a complaint about Chris Eiland?

A. Complaint meaning the quality of work?

Q. Just any complaint.

A. I do not remember any specific complaint about Chris, coming to me personally.

Q. Tell me about your involvement with the advisory committee at the Master level. How often did you meet? What happens at that stage?

A. There are several formal meetings which we have relative to sign off on the approval of the projects and then updates of progress. I couldn't tell you a number. Two to three, perhaps, during that time.

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19 Other than the informal hallway
 20 conversations of how many cats, how is the
 21 radiographs going, just casual
 22 conversations, nothing formal.
 23 Q. Did you have any conversations with Dr.

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1 Blagburn about Chris Eiland after he
 2 completed the Master's program?
 3 A. Not specifically about Chris, that I
 4 remember. The project was going before
 5 Chris came and continued after Chris left.
 6 So the conversations were mainly on the
 7 project and I don't remember specifically
 8 about Chris.
 9 Q. And what was the project?
 10 A. The project was studying the incidence and
 11 severity of lung disease, for my part, in
 12 random source cats and coordinating all of
 13 the various aspects of lung disease in
 14 those cats.
 15 Q. What is the involvement or relationship
 16 between you and Dr. Blagburn in terms of
 17 that project?
 18 A. His responsibility was evaluating the
 19 parasitology, meaning the internal
 20 parasites, the GI parasites, and some of
 21 the serology. My part was more on the
 22 cats, the lung disease, the radiograph,
 23 the histopath, and some of the serology.

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1 Q. And that program is still in place or is
 2 ongoing?
 3 A. It is ongoing.
 4 Q. Is there a graduate student that you are
 5 aware of that took Chris Eiland's place,
 6 as far as the research?
 7 A. No.
 8 Q. Are you a major professor now for a
 9 student?
 10 A. Yes.
 11 Q. How many students?
 12 A. One.
 13 Q. Just one?
 14 A. Yes.
 15 Q. When did you become the major professor?
 16 A. I guess when he decided that my area of
 17 research is the area he wanted to
 18 concentrate in.
 19 Q. And when was that?
 20 A. Probably at the time he started. As I
 21 remember, it was pretty much when he
 22 started.
 23 Q. And does that student now have a plan of

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1 study?
 2 A. I believe so.
 3 Q. In terms of time, from enrollment and
 4 selecting you as the major professor and
 5 getting the plan of study, how much time
 6 was there?
 7 A. We require within a semester. The
 8 graduate school, I think, requires it
 9 within two semesters. Here again, that is

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10 separate from the enrollment in the
 11 graduate program. A plan of study for a
 12 Master's can be changed with the signature
 13 of the advisory committee at any point.

14 Q. Did you ever hear that Chris Eiland had
 15 been kicked out of the Ph.D. program?

16 MR. KNIGHT: Object to the
 17 form.

18 A. Again, I was never aware that Chris was in
 19 the Ph.D. program.

20 Q. You never did hear that?

21 A. No.

22 Q. Did Chris Eiland ever come and talk to you
 23 after Dr. Blagburn resigned as his major

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1 professor?

2 A. Here again, I am not aware of Byron
 3 necessarily resigning as his committee.
 4 Chris did approach me as to whether or not
 5 I had any funding. But, here again, I am
 6 not aware that Chris ever started a Ph.D.

7 So your question is a disconnect
 8 from my recollection.

9 Q. So you have not had any discussions with
 10 Dr. Blagburn about being a major professor
 11 for Chris Eiland?

12 A. No. That is not something I would have
 13 done, because I don't do that depth of
 14 pure parasitology research. I would not
 15 be qualified.

16 Q. Had Dr. Blagburn resigned as Chris
 17 Eiland's major professor, who else could
 18 have taken that position?

19 MR. KNIGHT: Object to the
 20 form.

21 A. Here again, it depends on the
 22 investigation. Numerous people can
 23 oversee a Ph.D. in certain areas. So if

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1 someone wanted to do a Ph.D. in molecular
 2 parasitology, there are people there and
 3 any number of other areas. Parasitology
 4 is a loosely formed discipline. So the
 5 interaction between a receptor and a cell
 6 can be part of parasitology. There are
 7 many levels of investigation. So it is
 8 not just a one entity. I am not trying to
 9 be elusive. I don't think of parasitology
 10 as a nice little coffee cup.

11 Q. So could you name another professor that
 12 may have been closely related to Dr.
 13 Blagburn's field that that person could
 14 have been a major professor for Chris
 15 Eiland?

16 MR. KNIGHT: Object to the
 17 form. I don't know how
 18 he could answer that
 19 question.

20 A. What I will say is, it depends on what
 21 area you want to investigate. It has to
 22 be someone who is qualified to lead in
 23 that area. So in the same way the

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1 graduate student who is working with me, I
 2 am qualified to lead them in that area.
 3 One other person couldn't necessarily have
 4 that expertise.
 5 Q. Let's take the person that you have, the
 6 graduate student that you are serving as
 7 major professor. If you decided you no
 8 longer wanted to serve in that capacity,
 9 what person could take your place?
 10 A. There are other people on the committee
 11 who, in an advisory capacity, could
 12 continue that level of investigation.
 13 I don't assume you want names.
 14 Q. Do you remember the other individuals or
 15 members of the advisory committee for
 16 Chris Eiland's Master's thesis?
 17 A. Not off the top of my head, no.
 18 Q. When was the last time you discussed Chris
 19 Eiland with Dr. Blagburn?
 20 A. I cannot remember a conversation in
 21 months.
 22 Q. Did you ever have a conversation with Dr.
 23 Wolfe regarding Chris Eiland?

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1 A. No.
 2 Q. Do you recall any conversations with any
 3 other professor regarding Chris Eiland
 4 after the Master's thesis?
 5 A. After the Master's thesis, no.
 6 Q. Have you talked with anybody regarding
 7 Chris Eiland no longer being at Auburn
 8 University?
 9 A. Well, yes. The caveat here is that Chris
 10 married a girl who was in my oldest
 11 daughter's class in high school.
 12 I have known Sarah since she was
 13 tiny. So the conversations have been more
 14 about Sarah and what she is up to after
 15 they got married. So it has been
 16 non-professional.
 17 Q. So conversations about Sarah, but not
 18 about Chris Eiland?
 19 A. Right.
 20 Q. Do you know why Chris Eiland is no longer
 21 at Auburn University?
 22 A. No.

MS. DICKEY: I have no other

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1 questions.
 2 MR. KNIGHT: I just have
 3 really one follow-up.
 4 CROSS-EXAMINATION

BY MR. KNIGHT:

5 Q. Let me kind of ask you to explain in a
 6 little bit more detail how Chris's
 7 research topic for his Master's thesis was
 8 chosen and what were the circumstances
 9 surrounding that.
 10 A. I have had a long-term interest in
 11 heartworm disease and particularly as it
 12 relates to cats and sought funding from
 13 numerous people. Pfizer funded a project
 14 on studying the interaction between
 15

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16 chronic lung disease and heartworm
17 disease. We started that project and
18 sought the help of several local
19 veterinarians and my own people, as well
20 as some of Dr. Blagburn's people. We
21 started that project. Chris came along
22 and expressed an interest in parasitology
23 and the accessibility of funding, we said,

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1 if he wants a small part of this for his
2 Master's, here is a project laid out and
3 already funded. More specifically, the
4 project itself was funded. There was no
5 salaries in this project whatsoever, even
6 for technical support. So Chris came in
7 and did mainly the serology part of this
8 and collected some of the samples and
9 wrote that up as his Master's.
10 Q. Now, explain what is the serology part.
11 Explain that a little bit.
12 A. We collected blood samples and measured
13 antibody titers, meaning the host response
14 to the presence of the heartworm, and
15 correlated those antibody responses with
16 whether or not worms were found at
17 necropsy.
18 Q. This was a more narrow issue within your
19 broader project?
20 A. Yes.
21 Q. Explain the circumstances. And you went
22 into it a little bit about Chris. Did he
23 come to you and ask you for a particular

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1 topic?
2 A. My recollection is Dr. Blagburn brought
3 this up, saying that Chris was interested
4 in doing some research in parasitology.
5 He asked me if it would be okay if Chris
6 took on part of this as his Master's. I
7 saw no downside in letting someone help
8 take care of some of these processes that
9 I was dealing with. So my recollection is
10 Byron asked me whether or not it would be
11 okay to let Chris take part of this,
12 because we were co-investigators on this.
13 Q. What was Chris's hypothesis for his
14 thesis? What was he trying to find out by
15 taking samples?
16 A. Well, he was more or less just doing
17 correlations to see whether or not
18 antibody titers, the presence of antibody
19 in the host, reflected whether or not
20 heartworms or other parasites were found
21 at necropsy.
22 Q. Did you use the actual research that he
23 actually went out and physically

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1 collected? Was that later incorporated
2 into your project?
3 A. It was all one great big project. So that
4 small part, obviously, that data was
5 included in the overall analysis. The
6 lung histopathology and the radiographs

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will be correlated back with the serology, which he was one of, as I remember, four or five people who collected this data.

So I had three veterinarians and three to four students over the time collecting this data, and Chris worked with them.

Q. All of the students were collecting the same data?

A. Yes.

Q. And did all of those students eventually incorporate the data into a thesis?

A. Those were students I hired during the summer. Those were veterinary students that I hired during the summer just to help do research. They were students just working on various projects for me.

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MR. KNIGHT: I think that is all I have.

REDIRECT EXAMINATION

BY MS. DICKEY:

Q. Did Dr. Blagburn ever tell you that he resigned as Chris Eiland's major professor?

A. No.

Q. Did you ever say to Chris Eiland that if that happened, you won't be able to find a major professor?

A. No.

MS. DICKEY: I have no other questions.

(Deposition concluded at approximately 11:40 a.m.)

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FURTHER DEPONENT SAITH NOT

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R E P O R T E R ' S C E R T I F I C A T E

STATE OF ALABAMA)

MONTGOMERY COUNTY)

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I, Kimberly B. Faucette, Certified Court Reporter and Notary Public in and for the State of Alabama at Large, do hereby certify on Monday, July 24, 2006, that pursuant to notice and stipulation on behalf of the Plaintiff, I reported the deposition of ALLEN RAY DILLON, DVM, MS, Diplomate ACVIM, who was first duly sworn by me to speak the truth, the whole truth, and nothing but the truth, in the matter of CHRISTOPHER B. EILAND, DVM, MS, Plaintiff, versus DR. BYRON L. BLAGBURN, individually and in his official capacity; DR. CHARLES HENDRIX, individually and in his official capacity; DR. JOSEPH JANICKI, individually and in his official capacity; DR. STEPHEN MCFARLAND, individually and in his official capacity; DR. ED RICHARDSON, in his official capacity as President of Auburn University; and DR. LAUREN WOLFE, individually and in his official capacity, Defendants, Civil Action No. CV-459-VP, now pending in the United States District Court for the Middle District,

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22 Eastern Division of Alabama; that the
23 foregoing colloquies, statements, questions and
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1 answers thereto were reduced to 32 typewritten
2 pages under my direction and supervision; that
3 the deposition is a true and accurate
4 Transcription of the testimony/evidence of the
5 examination of said witness by counsel for the
6 parties set out herein; that the reading and
7 signing of said deposition was waived by witness
8 and counsel for the parties.

9 I further certify that I am neither of
10 relative, employee, attorney or counsel of any
11 of the parties, nor am I a relative or employee
12 of such attorney or counsel, nor am I financially
13 interested in the results thereof. All rates
14 charged are usual and customary.

15 This the 28th day of July, 2006.
16
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18
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20 _____
21 Certified Court Reporter and
22 Notary Public, State at Large
23 AL-CSR-440

* * * * *

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